

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with James W. Edmondson on October 29, 2009.

The application has been amended as follows:

Canceled claims 1-8 and 16.

In claim 9, in line 1, after "of claim" deleted "8" and replaced with --24--.

In claim 9, in line 3, after "adapted to" deleted "being" and replaced with --be--.

In claim 9, in line 3, after "the ground" deleted "so as".

In claim 10, in line 1, after "of claim" deleted "1" and replaced with --21--.

In claim 11, in line 1, after "of claim" deleted "1" and replaced with --21--.

Inserted new claim 21 as follows:

--21. (New) A fencing system comprising:

a plurality of stakes configured to be driven into the ground, each said stake including a hollow stake sleeve having an internal diameter;

a plurality of posts, each said post having a first diameter being smaller than the internal diameter of each said hollow stake sleeve, any one of said posts slidably, interchangeably inserting into and being

frictionally and removably retained by said stake sleeve of any one of said stakes; and

a plurality of structural fencing components, each said fencing component including a vertical element disposed at at least one side edge thereof and a pair of post attachment collars, one of said post attachment collars disposed at the top of said vertical element and the other said post attachment collar disposed at the bottom of said vertical element, said post attachment collars each having an annular opening therethrough with a second diameter larger than said first diameter of said post, said fencing components slidably, rotatably, removably and interchangeably attaching to said posts to thereby connect adjacent structural fencing components to each other while allowing said fencing components to be rotationally adjusted relative to said post;

wherein said stakes are inserted at a plurality of selected locations in the ground, and said adjacent fencing components are aligned such that said openings of said post attachment collars of said adjacent fencing components are axially aligned and one of said posts is downwardly inserted through said aligned post attachment collars into said stake sleeve of a selected one of said stakes;

said structural fencing components being chosen from the group consisting of interchangeable base units, interchangeable gate units and interchangeable end units. --.

Inserted new claim 22 as follows:

--22. (New) The fencing system of claim 21, wherein said base units each include a vertical element on each side thereof, and wherein said post attachment collars comprise post rings. --.

Inserted new claim 23 as follows:

--23. (New) The fencing system of claim 21, wherein said gate units each comprise a pair of complementary doors each having an outside edge, wherein said outside edges terminate in a vertical element and wherein said post attachment collars comprise a pair of post hinges disposed at the top and bottom of said vertical elements, said post hinges including a post ring and a hinge element to allow said complementary doors to open and close. --.

Inserted new claim 24 as follows:

--24. (New) The fencing system of claim 21, wherein said end units each include a vertical element on one side thereof, and wherein said post attachment collars comprise post rings disposed at the top and bottom of said vertical element. --.

Inserted new claim 25 as follows:

--25. (New) A fencing system of claim 21, wherein said adjacent fencing components are aligned such that said openings of said post attachment collars of said adjacent fencing components are axially aligned above a selected one of said stakes--.

Inserted new claim 26 as follows:

--26. (New) A fencing system comprising:

a plurality of wedge-shaped stakes configured to be driven into the ground, each said stake including a stake sleeve comprising a cylindrical cavity within said stake, said stake sleeve having an internal diameter;

a plurality of cylindrical posts, each said post having a first diameter smaller than said internal diameter of said hollow stake sleeve, said post slidably inserting into and being frictionally and removably retained by said stake sleeve of any one of said stakes; and

a plurality of structural fencing components, each said fencing component including a vertical element disposed at at least one side edge thereof and a pair of post attachment collars, one of said post attachment collars disposed at the top of said vertical element and the other said post attachment collar disposed at the bottom of said vertical element, said post attachment collars each having an annular opening therethrough with a second diameter larger than said first diameter of said post, said fencing components slidably, rotatably, removably and interchangeably attaching to said posts to thereby connect adjacent structural fencing components to each other while allowing said fencing components to be rotationally adjusted relative to said post;

wherein said stakes are inserted at a plurality of selected locations in the ground, and said adjacent fencing components are aligned such

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that said openings of said post attachment collars of said adjacent fencing components are axially aligned and one of said posts is downwardly inserted through said aligned post attachment collars into said stake sleeve of a selected one of said stakes;

said structural fencing components being chosen from the group consisting of interchangeable base units, interchangeable gate units and interchangeable end units, wherein:

said base units each include a vertical element on each side thereof, and wherein said post attachment collars comprise post rings;

said gate units each comprise a pair of complementary doors each having an outside edge, wherein said outside edges terminate in a vertical element and wherein said post attachment collars comprise a pair of post hinges disposed at the top and bottom of said vertical elements, said post hinges including a post ring and a hinge element to allow said complementary doors to open and close; and

said end units each include a vertical element on one side thereof, wherein said post attachment collars comprise post rings disposed at the top and bottom of said vertical element, and wherein said end unit further includes a stake pin disposed on the side opposite said vertical element, said stake pin being adapted to be inserted into the ground to anchor said end unit in position. --.

Inserted new claim 27 as follows:

--27. (New) A fencing system of claim 26, wherein said adjacent fencing components are aligned such that said openings of said post attachment collars of said adjacent fencing components are axially aligned above a selected one of said stakes--.

2. The following is an examiner's statement of reasons for allowance:

As to claims 21 and 25, Carvelo et al. (US 2,651,502) in view of Carlson (US 803,741) discloses the claimed fencing system with the exception of wherein any one of the posts slidably, interchangeably insert into and are frictionally and removably retained by the stake sleeve of any one of the stakes; and wherein the stakes are inserted at a plurality of selected locations in the ground, and the adjacent fencing components are aligned such that the openings of the post attachment collars of the adjacent fencing components are axially aligned and one of the posts is downwardly inserted through the aligned post attachment collars into the stake sleeve of a selected one of the stakes.

The BPAI Decision, dated October 28, 2009, states that Carlson fails to teach or suggest a post being frictionally and removably retained in an anchoring member or stake. Accordingly, there is no teaching or suggestion, absent the applicant's own disclosure, for one having ordinary skill in the art to have modified the fencing system of Carvelo et al. in view of Carlson to have the above mentioned elemental features. Furthermore, such modifications would yield unexpected and unpredictable results.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL P. FERGUSON whose telephone number is (571)272-7081. The examiner can normally be reached on M-F (6:30am-3:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on (571)272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MPF
10/30/09

/Michael P. Ferguson/
Primary Examiner, Art Unit 3679